

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

THE PEOPLE,

Plaintiff and Respondent,

v.

MARCO ANTONIO GUERRA,

Defendant and Appellant.

B205490

(Los Angeles County
Super. Ct. No. BA288019)

APPEAL from a judgment of the Superior Court of Los Angeles County,
Judith L. Champagne, Judge. Affirmed.

Eric Robert Larson, under appointment by the Court of Appeal, for Defendant and
Appellant.

No appearance for Plaintiff and Respondent.

On the evening of July 31, 2004, 16-year-old Juan Gomez went into a market owned by his parents, while his friend, 14-year-old S.C. waited outside. As Gomez was leaving the market, both he and S.C. were struck by bullets fired from a passing white Mitsubishi. Gomez died from his wounds.

Days later, police stopped Marco Guerra, a known 18th Street Gang member. Guerra was driving a white Mitsubishi with damage and other distinctive markings matching those of the car shown in the market's surveillance video. Two other known 18th Street Gang members were with Guerra in the car. After Guerra was arrested, he volunteered to police he was behind the wheel of the white Mitsubishi at the time of the shooting, but he claimed another gang member had forced him at gun point to drive the car. In a later interview, Guerra again admitted to police he had been driving the car when the shooting occurred.

A jury convicted Guerra of willful, deliberate and premeditated murder of Gomez (count 1), and attempted willful, deliberate and premeditated murder of S.C. (count 2). The jury found as to both counts that a principal had personally and intentionally discharged a firearm, which proximately caused great bodily injury and death, and Guerra had committed the offenses for the benefit of a criminal street gang.

Guerra was sentenced to an aggregated state prison term of 50 years to life: 25 years to life for premeditated murder (count 1), plus 25 years to life for the accompanying firearm use/great bodily injury enhancement; 25 years to life for attempted premeditated murder (count 2), plus 25 years to life for the accompanying firearm use/great bodily injury enhancement to be served concurrently to the sentence imposed on count 1. The court ordered Guerra to pay a \$20 security assessment and a \$200 restitution fine. A parole revocation fine was imposed and suspended pursuant to Penal Code section 1202.45.

Guerra filed a timely notice of appeal and we appointed counsel to represent Guerra on appeal.¹ After examination of the record counsel filed an “Opening Brief” in which no issues were raised. On September 26, 2008, we advised Guerra he had 30 days within which to personally submit any contentions or issues he wished us to consider. No response has been received to date.

We have examined the entire record and are satisfied Guerra’s attorney has fully complied with the responsibilities of counsel and no arguable issues exist. (*Smith v. Robbins* (2000) 528 U.S. 259, 277-284 [120 S.Ct. 746, 145 L.Ed.2d 756]; *People v. Kelly* (2006) 40 Cal.4th 106; *People v. Wende* (1979) 25 Cal.3d 436, 441.)

The judgment is affirmed.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

ZELON, J.

We concur:

WOODS, Acting P. J.

JACKSON, J.

¹ On February 14, 2008, this court granted Guerra’s application for relief from default for failure to file a notice of appeal in a timely fashion, and directed the superior court to accept as timely his filed notice of appeal.